

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 20-25 are withdrawn from consideration.

Claims 1-19 are rejected under 35 U.S.C. 103(a) over the patent to Jackson in view of the patent to Dyck.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicants have amended the claims to more clearly define the present invention and to distinguish it from the prior art.

In the Examiner's opinion the present invention can be obvious from the above discussed references. First of all, it is respectfully submitted that the combination of the references proposed by the Examiner can not be considered as obvious, since no person skilled in the art during the last 30 years was capable to file the solution as proposed in accordance with the present invention.

Moreover, the patent to Dyck discloses only methods and apparatus for determining the compressibility and/or moisture content of particulate materials. "Therefore, the method comprises first providing a first predetermined value of the particular material in an uncompressed condition. Then the particulate material is compressed to a second predetermined value which is smaller than the first predetermined value. Finally, the pressure exerted by the compressed particulate material is measured. Preferably, the measured pressure is converted to a measure of moisture content of the particulate material", as disclosed in the part of the description from column 1, line 64 to column 2, line 6. This means that the moisture content of the particulate material is determined against or on the basis for the measured pressure.

In contrast, in accordance with the present invention a crop parameter of a crop probe is not determined against or on the basis of the measured pressure in the compacting device. In fact, the crop probe is compacted in a compacting device with a pre-defined pressure in order to reach an optimum compression and to avoid an embedding of air in the crop probe. Such an optimum compressed probe is ideal to determine crop parameter by sensors.

It is therefore believed to be clear that none of the references teaches the new features of the present invention as now defined in the claims.

As for the combination of the references, since none of the references teaches the new features, therefore in order to arrive at the applicant's invention from the combination of the references, the references have to be fundamentally modified, in particular by including into them the new features of the present invention.

However, It is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in *re Randol and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

In view of the above presented remarks and amendments, it is believed that the claims currently on file should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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